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Judge to Decide Soon on Letters Considered a Key to Spy Case

By PHILIP SHENON
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SAN FRANCISCO, March 7 — A Federal district judge is expected to decide soon if jurors may see letters that prosecutors have described as a virtual confession by Jerry A. Whitworth, a retired Navy communications specialist charged with spying for the Soviet Union.

Defense lawyers say the decision by Judge John P. Vukasin Jr. could greatly influence the outcome of the trial, which continued here today with jury selection.

The letters were mailed to the Federal Bureau of Investigation in 1984 by an anonymous writer who described himself as a member of a Soviet spy ring. Prosecutors have said that the details provided by the author, who signed the letters "RUS, Somewhere, USA," conform exactly to information known by Mr. Whitworth.

He has denied writing the four typed letters, but his lawyers have said the letters could prejudice a jury.

Last December, Judge Vukasin ruled against use of the letters, saying there was no proof that Mr. Whitworth was the author. At the time, the judge said there would be virtually "no need for a

trial" if the Government could establish Mr. Whitworth's involvement. The judge has agreed to reconsider the earlier decision.

Impact of Letters

At a court hearing this week, an Assistant United States Attorney, William S. Farmer, told the judge that Mr. Whitworth would "be heavily prejudiced by the letters, but he'd be fairly prejudiced."

Mr. Whitworth is accused of participation in a spy ring formed by a Navy colleague, John A. Walker Jr., who is expected to be the Government's star witness. Both men had top-secret security clearance and access to highly sensitive communications equipment in their Navy careers.

The letters describe the career of a spy who wishes to expose a "significant espionage operation" in exchange for immunity and an unspecified amount of money. They were made public by prosecutors in a court paper last month.

In the first letter, dated May 7, 1984, RUS said he had "been involved in espionage for several years, specifically I've passed along top secret cryptographic key lists for military communications, tech manuals for same,

intelligence messages, and etc."

That passage, prosecutors say, describes precisely the sort of information that Mr. Whitworth has been accused of providing to the Soviet Union through Mr. Walker.

Key lists are the guides used to decode secret communications among military commanders. Tech manuals, officials said, are a reference to the manuals used with Navy encryption machines. They said the manuals included circuitry diagrams that could be used to create a reproduction of the machines, permitting a foreign power to read military communications.

RUS also wrote that he had decided to stop providing military secrets to his "contact," who prosecutors have said was Mr. Walker. The letter said the contact "passes the material to a contact overseas (his actual status — KGB or whatever — I don't know)."

According to the letter, RUS had been warned that he could not leave the spy ring "without approval." The warning "was accompanied by threats," RUS said, adding, "Since then I believe the threats were a bluff." In a court filing last month, prosecutors said Mr. Walker would testify that he had warned Mr. Whitworth that fail-

ure to continue his espionage activities "could result in violence."

Prosecutors said they had found several similarities between the writing styles of RUS and the style used by Mr. Whitworth in other correspondence.

Among other things, prosecutors said, both used "tho" for "though," and both repeatedly made use of the phrase "and etc." or "& etc." There was also a tendency for both to use slash marks in place of the word "and," and to begin sentences with an infinitive.

James Larson, one of Mr. Whitworth's lawyers, has described the prosecutors' linguistic analysis of the letters as "real voodoo" that proved little and could jeopardize a fair trial. Many of the writing similarities noted by prosecutors would apply to many other people, he said.

Prosecutors say there were other strong ties between RUS and Mr. Whitworth.

Three of the four letters were mailed from Sacramento, near Mr. Whitworth's home in Davis. The other letter, dated June 18, 1984, was postmarked San Jose, and prosecutors said in court papers last month that they would prove Mr. Whitworth was then

traveling to Yosemite National Park and had mailed the letter from a postbox near San Jose.

In the second letter received by the F.B.I., the writer said he was "remorseful" and hoped to "break the espionage ring." RUS said that his Soviet contact had been "in the business" for more than 20 years and planned to continue indefinitely. Mr. Walker has confessed to spying for the Soviet Union for nearly two decades.

As requested by RUS, the bureau responded to the letters through classified advertisements in The Los Angeles Times. The bureau offered to meet with him in Mexico, but RUS declined.

In a letter dated Aug. 13, RUS said he had decided against cooperating with investigators.

"I've done a lot of serious thinking and have pretty much come to the conclusion that it would be best to give up on the idea of aiding in the termination of the espionage ring," the letter said. "The chances of my past involvement ever being known is extremely remote, as long as I remain silent. I can still say I would prefer to get it off my chest, to come clean." The bureau said it did not hear from RUS again.